German Sugar's Sticky Fingers

Frederick Bernays Wiener

Overshadowed by Aloha Tower, and on the site of one of the twin 21-story Amfac Towers on the Fort Street Mall, there originated one of the most memorable and unusual incidents of Hawaiian history.

Amfac Inc., now a billion dollar conglomerate, is the successor at one remove to Hackfeld & Co. Ltd., which prior to 1918 was the center of German influence in the Pacific. Seized by the Alien Property Custodian in that year, Hackfeld & Co. was sold to a new group, American Factors Ltd. Beginning in 1920, the expropriated former stockholders recovered some or all of their seized property, after which they sued the purchasers, contending that the sale price fixed in 1918 had been grossly inadequate, that it was the result of a business conspiracy masquerading as patriotism. After eight years of struggle in the courts, where all their contentions were rejected, some of the former stockholders then sought to recoup their claimed losses from the United States Government. In the course of defending those new proceedings, the Government embarked on a relentless search, laboriously assembling and arranging bits and pieces of evidence from many persons in widely scattered places. Subsequently the United States established in those and further lawsuits, extending over another nine years, that the principal earlier recoveries had involved extensive and artfully contrived frauds; that a subordinate official, whose apparently fortuitous appearance on the scene was actually of determinative weight, had earlier been corrupted; and that two future Chief Justices of the United States, Secretary of State Charles Evans Hughes and Attorney General Harlan Fiske Stone, had each made a controlling mistake of law. The Government won its cases. But as the

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funds available were insufficient to satisfy the judgment in its favor, the resultant deficiency was sought from the lawyer who had originally orchestrated the fraudulent and corrupt scheme. That individual escaped the first and most obvious hook, but his additionally fraudulent underpayments of income tax got him in the end.

The tale just outlined, which begins with the extinction of German influence in the Hawaiian Islands, has been inaccurately told, if at all, in the many histories of the State of Hawaii. Even the house histories of Hackfeld & Co.'s corporate successors, *Kamaaina—A Century of Hawaii,* published by American Factors Ltd. in 1949, and *Dynasty in the Pacific,* published for Amfac Inc. by McGraw-Hill in 1974, fail to tell the whole story. For the complete version, resort must be had to the sworn testimony and the documentary evidence adduced in a long series of bitterly contested court cases. The present account is drawn from those records.[1]

REORGANIZATION

Early days of Hackfeld. When Hawaii was annexed by the United States in 1898, sugar was king—and nearly 90% of the sugar industry was in the hands of a few factoring companies, the "Big Five." Those concerns controlled the plantation companies, in most of which they held stock. The factors could and did take a profit on nearly all merchandise passing the plantations in both directions. They sold the plantations' sugar at handsome commissions. They provided equipment and supplies for them, taking a cut from both buyer and seller. Nearly every one of those transactions involved not only shipping but insurance, and all of the factoring companies had steamship and insurance agencies, which provided still another source of income. They also acted as bankers for the plantations, tiding them over hard times. And, until after World War II, when the work force for the first time became unionized, it was the Big Five that controlled Hawaii's economy.[2]

Three of the five were American in origin: Alexander & Baldwin, C. Brewer & Co., and Castle and Cooke. A fourth, Theo. H. Davies & Co., where the British consulate was located, was British-owned.

The last of the Big Five, H. Hackfeld & Co. Ltd., was German-owned.[3] Founded by Captain Henry Hackfeld in 1849 as a merchandising operation, it prospered and soon formed close and valuable ties with a number of plantations. In 1881 the company was joined by Paul Isenberg of Lihue on the island of Kauai; originally a trained agriculturalist, he applied his very considerable talents to the development of sugar production. Prospering, he became an outstanding leader in the

community, so much so that King Lunalilo created him a Noble of the Kingdom.

Noble Paul favored the monarchy, overthrown in 1893, as against the republic that succeeded it, and was then hostile to annexation, preferring continued Hawaiian independence. Democracy was not to his liking; in a still extant letter, he avowed that universal suffrage was the greatest mistake of the 19th Century. After Hawaii became American in 1898, Isenberg returned to Germany and in 1899 resumed German nationality.[4] Dying in Bremen in 1903, he left a personal estate of $7,000,000.

Apart from the Isenberg interest, H. Hackfeld & Co. was a cozy family party: virtually everyone who came out to join it was related by either blood or marriage to someone already in the firm. After Noble Paul's death, the concern was headed by John F. Hackfeld, a nephew of the founder. Alone of all the Big Five, Hackfeld & Co. also had a retail outlet, B.F. Ehlers & Co., originally operated by and named for another of Captain Hackfeld's nephews. A brother-in-law, J. C. Pflueger, was in charge of the firm's Bremen office. And when John Hackfeld returned to Bremen in 1900, his successor both as executive in charge and as German consul was still another cousin, George F. Rodiek.

The German consulate had been an adjunct of the firm since 1853, after which the office of consul was regularly held by its resident head. When the partnership was incorporated in 1897, to be housed in the building then being erected at the corner of Fort and Queen Streets, an edifice that was to stand for 70 years,[5] the consular office was reached by its own side entrance on Queen Street, and the arms of the German Empire were carved in stone over that door.[6] Regularly on the birthday of Kaiser Wilhelm II, the German Consul hosted a reception for the leaders of the community. Survivors years afterwards recalled the occasion as a good party where champagne flowed—like champagne.

Although resident in Bremen after 1900, John Hackfeld regularly commuted to Hawaii, and spent at least half of his time there until 1914. He had a reservation to sail again in October 1914, but the outbreak of war precluded further travel.

The effects of war. In Hawaii, the effects of the war were hardly felt at first. The German gunboat *Geier* was interned in Honolulu in November 1914 when it preferred semi-prisoner status to being outgunned and sunk by a Japanese cruiser hovering beyond the three-mile limit. With the breach of diplomatic relations in February 1917, the crew of *Geier* sabotaged their ship, whereupon the vessel was seized and its officers and men placed in a stockade.

Associated with Rodiek in the management of Hackfeld & Co. were two other Vice-Presidents, J. F. Carl Hagens, also a relative of the Hackfeld family, and John F. Humburg, in charge of the San Francisco office. All three were American citizens, and, like their absent chief, German born. Most of the department heads, also, had been born in Germany. Rodiek was President of the Hawaiian Sugar Planters' Association, the very essence and, indeed, the pinnacle of the Hawaiian establishment.

Therefore, when the afternoon paper in Honolulu announced, in July 1917, that a federal grand jury in San Francisco had indicted Rodiek and one of his consular employees for violation of the neutrality laws, specifically of complicity in the German-Hindu plot, no one was much excited. The notion of Germans hiring Hindus to subvert British rule in India was fantastic. George Rodiek was apillar of the community; it was unthinkable that a businessman of his stature could be a criminal. His assurances of innocence were taken at full face value, and when he sailed for San Francisco to attend the trial, all his friends saw him off as though it were just another mainland trip.

Early in December 1917 came the explosion—actually two explosions, but they were both so loud and followed each other so closely that many bystanders heard only a single blast. At the commencement of the German-Hindu trial, Rodiek changed his plea to guilty. The community was aghast. Then the Honolulu Office of Naval Intelligence published in the press excerpts from the diary of Captain Karl Grasshof, Imperial German Navy, erstwhile commander of *Geier*. In those entries, the methodical Teuton had recorded in detail his violations of the terms of his internment, and his contacts and dealings with Consul Rodiek. It made embarrassing reading when opened to public gaze, particularly because it showed how closely Hackfeld & Co. had worked with official German agencies. The interned sea-dog had ill repaid his hosts' hospitality by pasting items on H. Hackfeld & Co. stationery into his book of memorabilia.[7] Again the community was shocked, this time into a surge of angry heated feeling. The war was suddenly brought very close.

Hackfeld & Co.'s business position was rendered precarious by the combination of the two events. The revelations of the Grasshof diary, coupled with the fact that some of the company's officers were German nationals—enemy aliens—resulted in sharp restrictions on their use of cables, a step that interfered substantially with their dealings in sugar. Their retail store, Ehlers & Co., was boycotted by the buying public. Their plantations threatened cancellation of the vital agency and factor-

ing contracts. Rodiek was expelled from both business and social organizations.

The value of the Hackfeld business lay in its earnings, not in its assets, and its earnings were entirely dependent on good will. Now that good will was well-nigh gone. All this was reported by Vice-President Hagens in Honolulu to Vice-President Humburg in San Francisco. Hagens was alarmed; Humburg was certain the matter would blow over. At Hagens' insistence, Humburg came to Honolulu. Five minutes in the city were sufficient to change his mind: an old friend cut him dead on the street. He quickly came around to Hagens' way of thinking, and reported to Rodiek that, "If German-controlled, we go to pieces, or if we Americanize, we maintain our position."

The Americanization of Hackfeld & Co. Hagens was able to undertake the Americanization process because of his unfettered control of John Hackfeld's personal holding company, John F. Hackfeld Ltd., which held just over a third of the H. Hackfeld & Co. stock; Hagens sold the latter to a syndicate of local businessmen headed by Walter F. Dillingham. The price was fixed by capitalizing the earnings of H. Hackfeld & Co. at 12% over a ten year period, and taking the average of that figure; this came to $180 a share, a figure in line with a number of recent private sales. While the $180 figure did not take into account, on the plus side, the tremendous war-time boom in sugar, it omitted as well, on the other side of the ledger, the fact that in January 1918 the good will of the concern was just about zero.

The sale made, the stockholders of H. Hackfeld & Co. met. The officers and directors living in Germany, John Hackfeld and J. Carl Isenberg (the elder son of Noble Paul) were removed from office. Also eliminated were those of German nationality living in Honolulu and, necessarily, Rodiek, too. Some department heads who had been too outspokenly pro-German during the period of neutrality were also dropped. New directors and officers, including Dillingham and Hagens, were elected. No one at the meeting suggested that among those deposed were Americans resident in Germany. Indeed, as Hagens testified later, "They were all pretty meek."

All therefore seemed well—until the local representatives of the Alien Property Custodian undertook to seize enemy property in Hawaii. Under the newly adopted Trading with the Enemy Act, "enemy" included everyone who was resident in an enemy country, regardless of nationality or personal loyalty.[8] But when Richard H. Trent, the Custodian's man, reached the till of John F. Hackfeld Ltd., he found,

not H. Hackfeld & Co. stock, but only the notes given by the Dillingham syndicate.

All of this was duly reported to the Custodian, A. Mitchell Palmer, who issued a one-word ultimatum to the reorganizers: "Unscramble!" In Palmer's view, the January reorganization was an evasion of the law because it effected a transfer of enemy interests to parties other than the Custodian. Former Governor (and former Chief Justice) Walter F. Frear made two trips to Washington to justify the action taken, but in vain; Palmer was adamant. The word was "Unscramble," and, no other course being available to them, the reorganizers did just that. The January sales were rescinded; H. Hackfeld & Co. shares were replaced in the John F. Hackfeld Ltd. box; and the Custodian, through Trent and the Trent Trust Company, had effective control of the Hackfeld business.

With the aid of an advisory committee that included prominent Honolulu businessmen from other sugar factors, the Custodian undertook what he perceived to be the purpose of the law, namely, the complete and permanent elimination of German influence and German capital from any business conducted on American soil.

There were three possiblities. One, liquidation of the company, was never seriously considered, because its earning value greatly exceeded its asset value. A second method, the sale of the enemy shares at auction, involved the possibility of resale to the former enemy owners after the war. That ran counter to Palmer's view of the purpose of the law, and moreover did not cover the case of the shares owned by Rodiek, who was regarded by him as a tool of the Kaiser. The third, the course adopted, was that Hackfeld & Co. would be sold to a new corporation to be formed. By controlling the subscriptions to the stock of the new company, the Custodian was able to eliminate any individuals he deemed undesirable. Provisions for a five-year voting trust acted as a further safeguard against future German control. All that was necessary was the unanimous stockholders' vote that Hawaiian law prescribed when all the assets of a solvent corporation were being sold.

The Custodian could count, first, on the shares that he held, either directly or through John Hackfeld's holding company. Existing stockholders who were permitted to subscribe would not demur; there would be no difference in substance. The only objection might come from those of the Hackfeld & Co. stockholders whom Palmer was determined to exclude. Palmer and his committee relented on some, but stood firm as to others, notably George Rodiek. Ultimately, all of those whom Palmer blackballed sent in their proxies—although later it was charged that Rodiek had been threatened with denaturalization unless he did so.

The German flag had figured prominently on the H. Hackfeld & Co. stock certificates (see cover illustration). But in mid-1918, the climate of opinion required that the new Hawaiian concern reflect war-time sentiments. The company was therefore named American Factors Ltd., and its B. F. Ehlers store simultaneously became Liberty House—which still flourishes under that name. In July 1918, by unanimous vote of the H. Hackfeld & Co. stockholders, the company's assets, business, and good will were sold to American Factors for $7,500,000. This came to about $194 a share, nearly 8% more than the $180 figure fixed by the January reorganizers.

The necessary corporate papers were soon signed, and the new concern moved into its predecessor's building. Stonemasons with hammer and chisel chipped away the Imperial German coat of arms over the side door (already plastered over when the United States became a belligerent), and the old company's name disappeared from the front entrance. Those stonemasons brought to a close nearly seventy years of association of the name of Hackfeld with the business life of the Hawaiian Islands.

RECOVERY

Hackfeld's argument for American citizenship. Relative quiet succeeded the sale to American Factors. What with the precipitous drop in the price of sugar once the wartime boom collapsed, the new company had problems of its own. The former Hackfeld & Co. officers all left for the mainland. Hagens, who then served as a Captain in the Army, was really returning to California, where he had been in business in 1913 when John Hackfeld persuaded him to become a Vice-President in Hackfeld & Co. Rodiek, pardoned by the President late in 1919, made a fresh start in San Francisco. The others, too, were in business ventures of one sort or another. Not a single one ever returned to Hawaii.

Slowly, as the emotions engendered by the war abated, Congress made provision for the gradual return of seized enemy property. In 1920, American citizens with war-time enemy status were allowed full recovery.[9] The younger J. C. Pflueger, son of Captain Hackfeld's brother-in-law and his successor as manager of the Hackfeld & Co. office in Bremen, Germany, took advantage of this boon, through Charles E. Hotchkiss, a New York lawyer. Pflueger, born in Hawaii but virtually a lifelong resident of Bremen, had guarded first his Hawaiian citizenship and then his American citizenship.[10]

In 1923, by virtue of the Winslow Act, German nationals were allowed to recover $10,000 of the principal amount of their seized property, plus

$10,000 a year income from the balance remaining in the Custodian's hands.[11] Only then did John Hackfeld, acting through Hotchkiss, make an effort to recover his property.

Later, in the summer of 1923, Hackfeld retained a new lawyer, Reuben D. Silliman, through whom he requested the return, not simply of $10,000, but of all his seized property, on the footing of asserted American citizenship. But as the amount involved was well in excess of $3,000,000, and because of problems arising from the Custodian's handling of other war claims,[12] Silliman was advised that Hackfeld's claim would not be acted on until the claimant could establish American citizenship through the State Department.

In November 1923, Hackfeld and Silliman appeared at the American Consulate in Bremen, and filed Hackfeld's application for an American passport. In that application, and in a long accompanying affidavit, Hackfeld asserted that he had become a citizen of Hawaii in 1894 by virtue of a Certificate of Special Rights of Citizenship; that he then became an American citizen in 1900 through the collective naturalization of all Hawaiians then effected by the Organic Act;[13] that while he had been forced to remove his wife to Germany in the same year because of her health, his real home remained in Hawaii; and that his stay in Germany during the war had been due to wartime restrictions, his wife's health, and his own ill health. These papers went to the Department with a favorable recommendation from U.S. Vice-Consul William G. Roll.

The State Department lawyers who dealt with the case had no doubt that the Certificate of Special Rights of Citizenship sufficed to make Hackfeld a citizen of Hawaii; they had rulings of former American Secretaries of State in similar instances to establish that point.[14] No one troubled to inquire in Honolulu about the situation now presented, or to study the Republic of Hawaii's Constitution pursuant to which Hackfeld's certificate had been issued. But they were troubled about the presumption of expatriation that had arisen against Hackfeld by reason of residence in the country of his birth for nine years.[15] So they cabled the Bremen consulate to ascertain how Hackfeld had been registered with the German police.

The consulate replied, forwarding certificates made up by Dr. Luerman, Bremen's Commissioner of Police. These showed that Hackfeld had been registered since 1903 as a subject of Oldenburg, the grand duchy of his birth. But Luerman explained that this was a mistake, as Hackfeld had lost his German citizenship in 1888 by reason of more than 10 years' absence from the Reich after 1877; under the German

citizenship law, absence for more than 10 years effected automatic expatriation.

The State Department was still not satisfied, and made further inquiries of its Bremen consulate, as recently there had been encountered numerous "mistakes" made by the authorities in Germany—all of them before 1914, when the German police were perhaps the most thorough and systematic in all Europe.[16] Late in February 1924, decision was made. U.S. Vice-Consul Roll, from Bremen, appeared in Washington while on leave. Questioned at length about Hackfeld's behavior, especially during the war, he reported favorably both orally and in writing. On March 13, 1924, Hackfeld was issued an American passport, one that bore the signature of the Secretary of State, Charles Evans Hughes.

Armed with this passport, Hackfeld came to the United States. By then, Alien Property matters had, for safety's sake, been placed in the Department of Justice, where Hackfeld had a hearing. At its conclusion, Attorney General Harlan Fiske Stone recommended allowance of the claim, and, a few days later, on April 26, 1924, President Calvin Coolidge signed it. Shortly thereafter, John Hackfeld was over three million dollars richer.

The suit against American Factors. His fortune substantially restored, Hackfeld went to San Francisco, where he rallied the former Hackfeld & Co. stockholders, who had been awaiting his arrival and his advice. With them he commenced a suit against American Factors, the members of the reorganization committee, and Trent, alleging that the 1918 sale of Hackfeld & Co. had been a fraudulent conspiracy, concocted under cover of wartime emotions and pretended patriotism, to obtain the old company's stock for far less than its true value. Instead of the sale price of $7,500,000, the company was alleged to have been worth $17,500,000 in the summer of 1918; and complainants sought judgment for their share of the difference of $10,000,000.

The suit for obvious reasons could not be tried in Honolulu, and by agreement took place in San Francisco—over a period of several months. Testimony taken on 112 court days resulted in a transcript nearly 15,000 pages long; bound up, the transcript occupied more than two and a half feet of shelf space.[17] Only a single incident of that massive forensic effort deserves notice here: the comment of defending counsel that, when former Vice-President Humburg, suing as an aggrieved stockholder, was confronted with the letters he had written in 1918, wherein he had urged the fairness of the $180 price per share, he and the gardenia in his buttonhole wilted simultaneously.[18]

The trial over, the judge found as a fact that: "(1) no actual fraud on the part of the respondents was shown; (2) no constructive fraud existed; (3) the price paid was adequate." He also rejected the contention of George Rodiek that his consent to the 1918 sale had been obtained by duress. Appeals dragged on without success for the former Hackfeld & Co. stockholders until April 1932. Four months later, John Hackfeld died in Germany.

But—"He that complies against his will/Is of his own opinion still." The belief that H. Hackfeld & Co. had indeed been undervalued in 1918 was embraced by Fredrick Rodiek, George's brother and John Hackfeld's ancillary executor in New York. A private bill was introduced in the United States Senate early in 1934, seeking the payment of $3,000,000 additional to the Hackfeld estate; this represented what the courts had refused to award John Hackfeld in his lifetime, namely, the difference between the $3,700,000 ultimately paid him by the Custodian, representing his share of the proceeds of the 1918 sale, and the claimed true value of his seized Hackfeld & Co. stock. Under a convenient provision of law then available, the bill was referred to the Court of Claims as a Congressional Reference that proceeded like any other case in that tribunal, except that no judgment could be entered at the end. The Court of Claims would simply ascertain the facts and make an appropriate recommendation to the house of Congress that had referred the matter for determination.[19]

Fredrick Rodiek filed his petition on July 2, 1934, with Silliman as counsel of record. In retrospect, this was the greatest mistake Silliman and the Hackfeld estate ever made. The new proceeding sparked a cross-suit by the United States that not only wiped out entirely Hackfeld's American estate, but also set in train proceedings against Silliman himself. The cross-suit exposed, 15 years after the event, the means by which Silliman and Hackfeld had engineered the 1924 recovery.[20]

RETRIBUTION—PHASE ONE

Hackfeld and the problem of citizenship. Through his 1923–1924 representations, written and oral, John F. Hackfeld had convinced officials of the United States that he had believed himself to be an American citizen from 1900 on, and that his true home was Hawaii, his presence in Bremen being simply a consequence of his wife's ill health. Government counsel, headed by Harry LeRoy Jones, Chief Counsel of the Alien Property Office of the Department of Justice, found otherwise, however, when they undertook to defend the Court of Claims case, and then to bring the cross-suit in New York against Hackfeld's estate for

the overpayments made to Hackfeld. The evidence was overwhelming: Hackfeld had never been an American citizen, and had never believed that he was.

In the closing days of the Civil War, Hackfeld & Co.'s bark *Harvest* had been captured and destroyed by the Confederate commerce raider C.S.S. *Shenandoah*. Years later, in 1912, John Hackfeld testified in a Court of Claims case that sought recovery for the loss. In that 1912 testimony Hackfeld said that he was a subject of the German Empire, and that his residence was in Bremen. The following year, when Congress, following ratification of the Sixteenth Amendment, enacted an income tax law,[21] Hackfeld duly filed a return. On that document, in his own handwriting, he wrote, "Foreigner" and "Non-resident alien." On each one of his commuting trips between Honolulu and Bremen between 1900 and 1914, Hackfeld carried Alien Certificates between Honolulu and San Francisco, and on his voyages from Bremen to New York he was invariably manifested as a German national.

One of Hackfeld's cousins, George B. Isenberg of Honolulu, was, in May 1914, about to marry an American, a step that seemed to him to warrant his own naturalization as an American citizen. But he was reluctant to undertake that additional step until he had first consulted his greatly admired relative, the President of Hackfeld & Co. John Hackfeld said to George Isenberg, "I haven't found it necessary; why should you?"

After the outbreak of war in 1914, Hackfeld, correctly surmising that the same seizures of German property that Great Britain had already effected would be duplicated by the United States once America were to become a belligerent, directed transfers of his holding company stock to relatives with American citizenship. But George Rodiek scotched every possibility of success for that plan by ordering re-transfers so that Hackfeld could receive his dividends. So it was that, when reorganization became imperative in January 1918, the shares were in Hackfeld's name.

Following the war, when communication between the United States and Germany could be resumed, Hackfeld and Hagens engaged in extensive correspondence in which Hagens undertook to justify his 1918 actions, while Hackfeld insisted that his company had been the victim of a business conspiracy cloaked in and hiding behind the banner of patriotism. This correspondence showed Hackfeld to have been a dedicated, patriotic German, belying his later representations that he had deemed himself American since 1900.

Hackfeld's close associates also considered him to have been a German and not an American. Hagens testified to that later. Humburg had

sworn, in the report he submitted to the Custodian in January 1918, that Hackfeld was a German, a characterization that made Humburg squirm twenty years later in the witness chair. Nor was Humburg ever able to square his "if we Americanize, we maintain our position" letter with the subsequent Hackfeld party line that the head of the company was an American citizen detained in Germany because of a wife unable to tolerate Hawaii's climate. If Hackfeld had indeed been an American, further Americanization would have been unnecessary. Nor had George Rodiek entertained contrary views. In his 1919 application for a Presidential pardon, he described Hackfeld & Co. as seized by the Custodian "because its controlling stockholders were Germans living in Germany." So counsel asked, "Who were the Germans living in Germany that you mentioned in your pardon application?" Long silences ensued, but ultimately Rodiek was driven to the painful admission that he must have meant Hackfeld and the Isenbergs.[22] The latter were also Silliman clients in litigation then pending; the crass fraud perpetrated by one of these, J. Carl Isenberg, will be briefly noted later.

Revealing also was the contrast between John Hackfeld and his first cousin, J. C. Pflueger the younger. Both had desks in the Bremen office of Hackfeld & Co. But while Pflueger appeared in the Bremen police records as an American, Hackfeld was registered as an Oldenburger. Pflueger went regularly to the American consulate; Hackfeld did not appear there until November 1923, when he made application for an American passport. Pflueger during the war was, necessarily, an enemy alien *vis-à-vis* the Germans, and barely escaped having his property seized by the German Custodian; Hackfeld was under no such disability. Pflueger sought return of his property taken by the American Custodian once Congress in 1920 had authorized relief for enemies who were American citizens; Hackfeld took no action until 1923, when the Winslow Act first provided partial restitution for enemies of German nationality.[23]

When Mrs. Hackfeld was taken back to Bremen in 1900, Hackfeld sold their Tantalus home and on his later commuting trips stayed with his cousin Rodiek. But while investigation of American facts and records was not difficult, it was otherwise when requests for documents were sent through diplomatic channels to the Nazi government of Germany. The State Department was often politely informed that the particular document requested had been destroyed, but that in any event it disclosed nothing concerning Hackfeld's citizenship.[24]

The apparent paradox was understandable. If the United States lost its cross-suit, the $900,000 in the Hackfeld estate in New York would

pass to the Hackfeld heirs in Germany—which was shorthand for saying that they got rentenmarks while the Nazi rulers acquired foreign exchange. If the United States won, neither the Hackfeld heirs nor the Nazis would get anything. The suspicions of Government counsel were fully confirmed after World War II, when American military government personnel found in official German files letters from the Hackfeld lawyers in Bremen, urging that the authorities withhold information regarding Hackfeld in the event inquiry should be made on behalf of the United States.[25]

However, the German Foreign Office did furnish a beautifully photographed and elaborately certified and exemplified copy of Hackfeld's resignation as consul, in which he stated that "On account of family considerations, I am obliged in the future to make my residence in Bremen." Transmission of that document did not mean for a moment that the Nazis were suddenly reforming or going soft; it meant only that the German Foreign Office lawyers were unaware of the American law then in force that a document that said not a word about citizenship still had a distinct bearing thereon. If Hackfeld had indeed been an American citizen at that time, his change of permanent residence to the country of his birth would have established a clear presumption of expatriation.

Luerman's certificates. New discoveries were also made in respect of Dr. Luerman's certificates that had proved so helpful to Hackfeld in 1923–24. One day while Dr. Luerman was away over lunch, the crack Alien Property investigator, Captain H. E. Osann, obtained from one of Luerman's subordinates a certification showing that there never was any such expatriation by reason of ten-year absence as Luerman had earlier put forward. To the contrary, the new data showed, first, that Hackfeld had in fact returned to Germany just eight days before the ten-year period expired, and, second, that he had been in possession of a military reservist's passport when he left Germany, so that under German law the period of expatriation never even began to run. Once Osann obtained the new document, he rushed it to the American consulate with the request that it be put in the diplomatic pouch, beyond the reach of Dr. Luerman or of anyone else.[26]

There were other deficiencies in Luerman's certificates. During all of the time that he had stated that Hackfeld had lost German citizenship by expatriation, the Bremen records in his care still listed Hackfeld's nationality as Oldenburg. Not until the American Consulate by direction of the State Department made a second inquiry did Luerman change the actual registration to "Nationality uncertain." Indeed, as a crowning

touch of irony, Hackfeld did not appear in the Bremen records as an American until 1924, 21 years after his original registration, and then the entry was, "Citizenship U.S.A.—proved by possession of American passport."

Dr. Heinrich Kronstein testified that, as a matter of German law, Luerman had no authority either to execute his certificates or to initiate changes in Hackfeld's registration. When Silliman objected that Kronstein, a Baden lawyer, was not qualified to testify regarding Bremen law, a Bremen lawyer, Dr. Ignatz Rosenak, was found among New York City's hordes of German refugees to testify to the same effect.[27]

The Americanism of Hackfeld & Co. It was also essential to demonstrate the falsity of the Hackfeld-Silliman allegations that Hackfeld & Co. was at all times 105% American in its outlook and activities, and that the German consulate housed in its office was simply a commercial agency. The first step was to find the Grasshof diary, that had so nearly blown the company out of the water in November 1917. Inquiries at the Navy Department proved fruitless, but the book was found, on a long off-chance, in the War Department's G-2 files, along with some plaintive letters from Grasshof seeking its return. The diary had been published in the Honolulu papers by the local Office of Naval Intelligence, then headed by a reservist, Lieut. William Todd. When he was scheduled for demobilization, some time in 1919, Todd was advised that the Navy Department intended to discontinue the Naval Intelligence Office in Honolulu. Lieut. Todd took his papers across the corridor of the Alexander Young Hotel, which then housed all service intelligence agencies, and gave them to his opposite number, the Army's G-2. And that was how the diary of Captain Karl Grasshof, late of the Imperial Germany Navy, ultimately turned up in the War Department's files.[28]

With the use of that diary, the transcript of the German-Hindu trial, and help from former officers and employees of H. Hackfeld & Co., the true nature of the company could be shown. It was a Hawaiian corporation, and all three of its 1914 Vice-Presidents, Rodiek, Humburg, and Hagens, were naturalized American citizens. Nevertheless, it was also as much of an Imperial German outpost as any of the German colonies then in the vast Pacific ocean. Its principal officers spoke German among themselves, addressing each other with the intimate *Du,* even though more and more native-born Americans came into their employ. Hackfeld & Co. had bought Liberty Bonds, as Silliman and Hackfeld had represented, but that was after America entered the war; before that, the firm had subscribed to German War Loans.

A fair index to the thinness of Hackfeld & Co.'s veneer of Americanism was provided by Von Damm, head of its insurance department. He had accompanied Hackfeld to Germany in the spring of 1914, and was in Berlin when war broke out in August. This newly naturalized American went straightway to the American Embassy to volunteer his services for whatever the evacuation of the thousands of stranded vacationing Americans might require. His offer was brusquely refused. Stung to the quick, Von Damm went across the street and offered his services to the German Foreign Office. The German diplomats were delighted, and sent him to their legation in Norway. Von Damm remained there well into the spring of 1915, an interval that became known in Honolulu as "Von Damm's long vacation." For this service he received the thanks of the German Kaiser,[29] after which, during the remainder of the period of neutrality, he became perhaps the most volubly outspoken pro-German individual in the Honolulu community. In consequence, as Hagens later put it, "There was an awful feeling towards Mr. Von Damm among a number of people, more so than almost anyone else." He was dropped in the January 1918 reorganization and left the islands immediately, never to return.

German men-of-war. Earlier, in the fall of 1914, Admiral Von Spee in his flagship *Nürnberg* put in at Honolulu, on his way to victory at the Battle of Coronel and then to his own watery grave off the Falkland Islands.[30] While in Hawaii he obtained $50,000 from Hackfeld & Co., a sum duly reimbursed by the German Government. As the Grasshof diary indicated, the company was in close touch with the gunboat *Geier,* interned at Honolulu. A former company clerk established that *Geier* was also in regular communication with another German gunboat, *Cormoran,* interned at Guam. In the files of the disbanded War Trade Board there was found a cable addressed to the latter vessel reading "Execute Order Fackfeld," the last word obviously meaning "Hackfeld." In fact, when the United States declared war against the German Empire on April 7, 1917, Guam time, *Cormoran* was blown up by her crew.[31]

But, who in Honolulu was competent to testify to the Guam link? Prior to World War II Guam was a miniscule outpost that most people never even knew existed and that only a very few persons had actually seen. Returning by ship to the mainland following a series of depositions taken from witnesses in Honolulu, a Government lawyer entertaining some fellow passengers one evening regaled them, or so he thought, with choice tidbits from the testimony he had just completed taking. When he mentioned Guam, one of the party said he had been there.

"Did you know about the *Cormoran?*"

"Sure, I used to play bridge with her officers."

"Did you know about her being blown up?"

"Hell, I saw her blow."

Counsel arranged to have his guest subpoenaed to testify to what he had seen. When Silliman moved to strike that testimony as immaterial, counsel stated on the record that the witness had been called solely because of the Hackfeld estate's insistence that only one who had actually been present on Guam on April 7, 1917, was competent to testify to the fact of *Cormoran's* destruction. This caused Silliman, at the next recess, to come over smiling to say, "The long arm of the F.B.I."—all the while shaking his head.[32] He never knew that the appearance of the Guam witness simply illustrated what Justice Felix Frankfurther was later to call, in his engaging oral history reminiscences, "the importance of contingency."[33]

Hackfeld & Co.'s super-patriotic Americanism had fallen as had Hackfeld's American citizenship. Later, on the witness stand in the New York case, Silliman was forced to admit that he had stretched matters. "There is a certain license due a lawyer in preparing a document of that character and when they are not prepared by me I do not meticulously correct the thing. . . . I remember at the time stating that they were slightly overcolored. Lawyers have some scope and some license in presenting matters to a court or a jury."

The role of Vice-Consul Roll. One other factual matter remained to be investigated. Vice-Consul Roll, who had recommended approval of John Hackfeld's passport application late in 1923, turned up in Washington a few months later, just when the application was under active consideration in the State Department. There he had supplemented his former written report with a personal interview, and both the files and later conferences with the Department's legal advisers showed clearly that this interview constituted the decisive factor in the granting of Hackfeld's passport.

How was it that the Vice-Consul had so opportunely turned up at such a crucial moment? Was it simply a lucky break for an expropriated former enemy? Was it purest coincidence, mere happenstance, like bumping into the Guam witness or finding the Grasshof diary in an illogical place? Or was there a different and more sinister explanation? One Department of Justice lawyer who interviewed Roll at his Oakland, California, home in the fall of 1937 obtained no information of substance.[34]

Investigations were broadened.[35] The State Department file disclosed that Roll's annual salary never exceeded $2500, that he had failed an examination for permanent appointment in the consular service, and that on his 1924 trip to Washington he had continued to California before returning to Bremen. His income tax returns disclosed no source of income additional to his salary. From former colleagues in the Bremen consulate it was learned that he had an extravagant and demanding wife, that he bought a car once he had returned from his American trip, and that while at one time hostile to Hackfeld's position he later changed his mind. The sum he had actually paid for his steamship passage was ascertained, as was his round-trip transcontinental rail fare. When all the digging and delving was completed, it was clear that Roll had received money in connection with his 1924 trip. Only two more questions needed to be put for information: (1) "How much was it?" (2) "Who actually paid you?"

In the spring of 1938, another Justice Department lawyer, accompanied by Special Agent O. H. Patterson of the F.B.I., went to Oakland unannounced to interview Roll a second time; a sister said that he was at a Sunday School meeting. This was helpful; a religious man is more apt to speak the truth, and Roll's failed consular examination was assurance that his was not an overpowering intellect.

Nonetheless, the basic problem remained: How does one induce any individual, regardless of mentality or background, to admit having improperly received money, even though such receipt occurred 14 years earlier, and even though the payment may not have amounted to a technical bribe?

Next evening both men again went out to see Roll. Patterson advised counsel not to dispute with Roll the first time he answered any question incorrectly, but to let him complete the entire story of his trip before venturing any contradiction. Then, while leaving the F.B.I.'s San Francisco office, Patterson left there Roll's address and telephone number, explaining in response to a question that this was rigidly required routine. At counsel's suggestion, Patterson arranged to be called at Roll's home after the visitors would have been there perhaps thirty minutes.

Counsel opened the conversation by recalling the Hackfeld matter. One by one, counsel showed him the laboriously collected documents that were relevant to Hackfeld's citizenship. All were new to Roll and shook him visibly; it became plain that he had had no idea whatever of the truth about Hackfeld. Roll rejected only one document as irrelevant,

a newspaper advertisement listing Hackfeld as a subscriber to a German war charity in 1918.

While counsel and Roll sat side by side examining the documents together, the telephone rang; Roll answered, then returned, saying with some apprehension, "It's for you, Mr. Patterson."

Patterson made his side of the conversation easily audible to the other two, still looking at papers.

"Yes, chief. Yes, sir, everything's coming along fine.

"No, chief, I don't think there'll be any difficulty.

"Yes, sir, I have that in mind, and I'll proceed on that basis if necessary. But I don't think we'll need to go that far.

"Yes, chief, I understand. Yes, sir. Goodbye."

Roll blanched visibly; counsel with some difficulty kept a straight face. Then, after all the documents had been examined and discussed, counsel moved back to a chair facing Roll, and asked about his 1924 trip from Bremen to the States.

Roll first said that his passage had been paid, that many steamship companies did that for consular personnel. This was not the fact as to the trip in question, but, obeying Patterson's instructions, counsel did not interrupt, and simply took Roll all the way to Oakland and return, reminding him that when he was once more back in Bremen he had bought a new car. No, it was only a second-hand car; but yes, it was new to him.

Counsel recalled Roll's financial position in 1924 and then put the controlling question point-blank: "How were you able to swing that trip from Bremen to California and return, and then buy a car and support a wife and child on just $2500 a year? That's pretty fancy financing. How did you do it?"

Roll swallowed hard and licked his lips nervously. "I will tell you." And he did.

Shortly after he had made his original favorable report on Hackfeld, Silliman visited Roll's Bremen home early one morning, and tendered an envelope in appreciation of the way that Hackfeld's passport application had been handled. Roll refused, saying he had simply done his duty. Silliman said that if Roll ever changed his mind, the envelope would be waiting for him in Hackfeld's Bremen office. Within a month or so, Roll did change his mind, went to Hackfeld's office, and said he had come for the envelope Silliman had earlier tendered. John Hackfeld went to his safe, taking from it an envelope containing $1500 in American currency. Without that money, Roll could not have made his trip to the United States.

When Roll had finished telling his story, he was asked to write it out, and he did so, in longhand. While engaged in that process, he added the following:

When he arrived in Washington to make the required official call at the State Department, Roll met Silliman in the building. (The Department's files disclosed that Silliman advised those handling the Hackfeld passport application that the Bremen Vice-Consul was in town.) Roll then reported to the Department, where he made his second and ultimately decisive report favorable to Hackfeld, and then had lunch with Silliman. The latter then offered a second envelope. This time Roll took it without discussion; it contained another $500 in currency.

Roll then swore to the truth of his statement before Patterson, and appeared greatly relieved. As the two Government men were leaving, counsel could not resist asking, "Why didn't you tell Mr. X about these payments when he talked to you last fall?"

"Because he didn't ask me about them."

Roll came East twice to testify voluntarily, once in the Court of Claims case in Washington, once before judge and jury in New York. On that latter occasion, when Roll said on cross-examination that his actions were not influenced "by any transaction that later was had by you with Mr. Hackfeld," U.S. District Judge Alfred C. Coxe was quick to intervene.

"You knew it was wrong, didn't you?"

Roll gulped. "Yes, I knew it was wrong."

There remained for investigation only the question of Hawaiian law that the State Department had never properly examined in 1923–1924.

Citizenship under Hawaiian law. In the 1894 Constitution of the Republic of Hawaii, under which certificates such as Hackfeld's were authorized,[36] issued by the Minister of the Interior, the holder was "entitled, so long as he shall remain domiciled in the Republic, to all the privileges of citizenship without thereby prejudicing his native citizenship or allegiance." The Republic's Constitution accorded to certificate holders a shorter process of naturalization than others,[37] but that instrument further provided that only the Supreme Court could naturalize aliens,[38] a step that required the applicant to abjure allegiance to the government of his native land.[39] Plainly, receipt of a Certificate of Special Rights of Citizenship alone from the Minister of the Interior could not possibly transform the recipient into a citizen of Hawaii.

The State Department lawyers dealt with the question as one of American law, that is, whether acceptance of such a certificate by an American citizen would disentitle him to diplomatic protection in the

event that he later tangled with the Hawaiian authorities. So they relied on American rulings denying such protection to one who had been naturalized under the Monarchy's wholly different laws,[40] and to another who had been a denizen under the Republic.[41] They never realized that the real issue was one of Hawaiian law, namely, whether receipt of the certificate, not followed by further steps, conferred Hawaiian nationality on the certificate holder. Hence they never looked at the Hawaiian Constitution, nor did they make any effort to examine the origins of that document or the line of its growth.[42]

They were also unaware of the circumstance that, after 1900, when the Organic Act conferred American citizenship on all citizens of Hawaii, other holders of Certificates of Special Rights duly sought and obtained American citizenship by individual naturalization proceedings. In an ironic touch, this latter group included all three of Hackfeld & Co.'s 1914–1918 Vice-Presidents, Rodiek, Humburg, and Hagens. Each member of the trio had been issued the precise form of certificate on which Hackfeld later rested his claim to have become an American citizen. But, whereas each of the three Vice-Presidents had proceeded to American naturalization, Rodiek indeed persisting after his first effect had been set aside by a higher court,[43] Hackfeld himself had only the certificate.

The sum-total of the foregoing should have been conclusive. But as Government counsel had been consistently unable after 1934 ever to convince the State Department lawyers that they had earlier erred, the Justice Department attorneys handling the Hawaiian litigation deemed it essential to gild the lily, and to adduce still more support for their contention that Hackfeld had remained a German national throughout.

The attorneys obtained the testimony of five distinguished Honolulu lawyers, men of long judicial and executive experience going back to the days of the kingdom, who said that it was the universal opinion of the Hawaiian bar that Certificates of Special Rights of Citizenship did not confer Hawaiian nationality.[44] Their views were admissible in evidence under an old Supreme Court case deciding that, in inquiries as to the law of a former sovereign of what later became American soil, information could properly be sought "from individuals whose official position or pursuits have given them opportunities of acquiring knowledge."[45] The Archives of Hawaii held a letter from President Sanford B. Dole of the Republic of Hawaii confirming what the five Honolulu lawyers had said.

Had the State Department lawyers in 1923–1924 undertaken their evaluation of Hawaiian Certificates of Special Rights with more intellec-

tual humility, had they properly appreciated that the question before them turned on the constitution of what was then a foreign country, had they applied the caution of Justice Holmes, who emphasized that to an outsider foreign law is invariably "a wall of stone,"[46] had they been less willing to brush off with bureaucratic arrogance the contemporary protests of a group of Honolulu lawyers over the issuance of the Hackfeld passport that the files disclosed had been made,[47] they would not have made the error they did.

Had the lawyers in the Department of Justice in 1924 been less trustful, they could then have discovered, doubtless more easily than their successors did after Hackfeld was dead, all that was ultimately uncovered more than ten years later. But, in Judge Learned Hand's penetrating comment, "When the parties do not have equal means of knowledge, it is immaterial that the victim, if more suspicious, could have discovered the cheat."[48]

Still, when one considers the scope and the consummate artistry of the fraud perpetrated by Hackfeld and Silliman in 1923–1924, to say nothing of their corrupting of Vice-Consul Roll, one will not judge too harshly the omissions of the earlier Government representatives.

The Hackfeld estate. There remain the two lawsuits involving the Hackfeld estate.

The Court of Claims case had at first, in 1937, yielded a Commissioner's report favorable to the Hackfeld interests, who thereupon, perhaps because of doubts arising out of the mass of evidence submitted by the Government, succeeded in getting a private Act of Congress passed for their benefit. That measure would have struck down every Government defense based on Hackfeld's lack of American citizenship and on his fraud, and would have left open only the issue of valuation that had earlier been adversely decided in California.

President Franklin D. Roosevelt, however, who was hostile on principle to any private legislation that favored a single individual over others similarly situated, vetoed the bill,[49] and the delay Silliman had obtained in anticipation of its signature was further extended. The outcome in the Court of Claims then awaited the conclusion of the cross-action in New York.

There, after 11 days of trial before a jury in the spring of 1939, Judge Coxe directed a verdict in favor of the United States for over $1,600,000, on the sole ground that John F. Hackfeld had as a matter of law never been an American citizen. Further, the Hackfeld estate by seeking more than President Coolidge's 1924 Executive Allowance had earlier allowed, opened up for reexamination every phase of the original claim.[50] Judge

Coxe thus determined that Chief Justices Charles Evans Hughes and Harlan Fiske Stone had each committed an error of law in 1924.

The amount of the New York judgment against the Hackfeld estate represented the difference between the 100% proceeds that John Hackfeld had recovered as a purported American citizen and the 80% that constituted the highest amount ever recoverable by former enemies of German nationality,[51] plus interest from date of receipt to date of verdict. The Hackfeld estate's appeal was twice argued, because, following the original presentation, Circuit Judge Robert P. Patterson had become Assistant Secretary of War. Following the second argument, the judgment below was affirmed.

When the Hackfeld estate then requested a rehearing for the disallowance of interest, that step was denied in a helpful second opinion which pointed out that the trial judge "did not regard the payments as resulting from an entirely innocent mistake on the part of Hackfeld." Finally, in 1942, with World War II raging, this case arising out of a World War I property seizure had a further hearing, but before a severely truncated Supreme Court.

Justices Murphy and Jackson, each of them a former Attorney General, could not participate since in that capacity they had been actual if nominal parties in the case. Nor could Chief Justice Stone participate. The Chief Justice had recommended the 1924 Executive Allowance, and had later been a deposition witness in the case to testify that he had earlier been completely unaware of the true facts concerning Hackfeld.[52] The remaining six justices split three to three, which meant that the judgments rendered in both courts below adverse to the Hackfeld estate were affirmed and became final.

At this point the Court of Claims litigation finally went forward. By then there had been a second report from the Commissioner, also adverse to the Government; no matter; the Court of Claims brushed aside both of his reports, and decided every issue against the Hackfeld estate. It determined, as in the New York litigation, that Hackfeld had never in his life been an American citizen. It made detailed findings that outlined the frauds committed by and for Hackfeld. And it found as a fact that Hackfeld had paid Roll $1500.

The Court of Claims did not determine whether Roll had received an additional $500 from Silliman. But there is not the slightest reason to suppose that the second payment was simply an incident invented by Roll as he was writing out his confession in June 1938. Nearly two years earlier, well before Government counsel had actual knowledge of any payments to Roll and while testimony was still being taken before the

Commissioner, Silliman had objected to the reception of a document bearing a consular certification, commenting that "You have a higher opinion of consuls than I have." Was this simply a gratuitous denigration? Or was his generalized deprecation of consuls based on his own earlier dealings with Vice-Consul Roll?

Finally, the Court of Claims determined that the price paid by American Factors for Hackfeld & Co. in 1918 was fair, and that no higher price could have been obtained. Accordingly, the Court reported to the Senate that the Hackfeld estate "has no claim, legal or equitable, against the United States for the payment of any sum."

The J.C. Isenberg fraud. But the Hackfeld fraud was not the only one perpetrated by a Silliman client. J. Carl Isenberg, the son of Noble Paul, and a Hackfeld & Co. director who had been tossed out on his ear in the January 1918 reorganization, also committed fraud.[53]

Living in Germany, J. Carl Isenberg made no move to recover his seized property until 1923, when the Winslow Act's grudging allowance of $10,000 capital and $10,000 annual income was made available to German nationals. Five years later, after the Settlement of War Claims Act permitted Germans to recover up to 80% of their seized property,[54] he filed and was paid under that distinctly more generous provision. Then, in 1931, he sought, and obtained (pursuant to an Executive Allowance signed by President Hoover), the remaining 20% on the representation that, by reason of birth in Lihue, Hawaii, which he had always considered his true home he had become an American citizen in 1900; that he had remained a citizen; and that he had never forsworn that citizenship by any oath of allegiance to a foreign power.

As with the Hackfeld estate, J. Carl could not leave well enough alone: he also filed a later suit seeking the difference between the full proceeds already recovered by him, and the alleged true value of the Hackfeld & Co. shares at the time of seizure. He of all persons could perhaps most appropriately advance that tenet of the party line, not because he had any personal knowledge of the facts—he had none, never having set foot in Hawaii after a short visit there in 1898—but because he had been the first-named claimant in the California litigation, the strenuously contested case that appears in the law reports as *Isenberg* v. *Sherman*.[55]

Here also, the United States filed a counterclaim once it had completed its investigations. These showed that J. Carl was taken to Germany for his education at the age of eight, and that, when his schoolmates were ready for military service, he became a citizen of Bremen in order to join them. His oath was recorded in the citizenship book of that ancient

Hanseatic free city. His father bought him an estate in Holstein, his own Hawaiian dividends assured continuing prosperity, and he was commissioned a reserve officer in a Mecklenburg cavalry regiment, the Ludwigsluster Dragoons.[56]

During World War I, J. Carl was the senior reserve officer in his regiment, serving until 1916, when he was inactivated that he might grow more foodstuffs for the Fatherland on his own broad acres. After the war, he made several trips to the United States, each time on a German passport; and he filed U.S. income tax returns, invariably as a non-resident alien. But, whereas in passport and in tax matters and in affidavits he furnished to other Alien Property claimants J. Carl was uninterruptedly a German who resided in Holstein, for his own Alien Property purposes he regularly represented himself as an American domiciled at Lihue, Kauai. What added spice to this kaleidoscopic metamorphosis was the circumstance that, in order to come to the United States to swear to documents setting forth the latter contradictory though potentially vastly more profitable statements, he stepped on American soil by virtue of an American visa—which he had obtained by asserting German nationality and German residence.

By the summer of 1939, the United States so far had the goods on J. Carl that it moved for judgment on its counterclaim, a step that left Government counsel wondering what response their quarry would make when faced by the documentary blockbuster it had assembled. Would he admit to being a German, his consistent position in the realm of passports and tax returns? Would he stonewall on his preferred stance in his own Alien Property affairs, and reassert American citizenship plus unswerving loyalty to the Stars and Stripes? J. Carl was equal to the dilemma: he put forward dual nationality! He admitted the Bremen naturalization, but insisted that, simultaneously, he had at all times been a good American nonetheless.

A careful and experienced federal judge deemed the case against the claimant so clearly established that there was nothing left to try; his judgment in the Government's favor, which included a specific determination that the Executive Allowance had been obtained by fraud, was duly affirmed on appeal.

RETRIBUTION—PHASE TWO

American law does not recognize dual citizenship in the sense of a dual allegiance simultaneously owed.[57] Just before J. Carl Isenberg advanced the ploy of dual nationality in November 1939, Silliman invoked the identical notion on behalf of John Hackfeld's New York

executor. In April 1939, immediately after Judge Coxe had ruled against the Hackfeld estate on the ground that Hackfeld had never as a matter of law been an American citizen at any time, Silliman approached the bench and said, "You know, Judge, Mr. Hackfeld always believed that he had dual citizenship."[58] If this was indeed the fact, no trace of any such belief appeared in any of the numerous documents Hackfeld had ever signed, either before or after November 1923. Nor had that concept surfaced in any of the many briefs that Silliman had presented to Government agencies and to courts from 1923 onward.

But, by 1939, it was far too late for criminal prosecution of Silliman because he, along with Hackfeld, had defrauded the United States. However, inasmuch as the New York assets of the Hackfeld estate, some $900,000, were wholly insufficient to satisfy the $1,600,000 judgment against it, a civil action was begun against Silliman in New Jersey federal court to obtain the deficiency from him, charging that he and John Hackfeld had been joint wrongdoers. In due course a jury rendered a verdict against Silliman for somewhat over a million dollars, the amount of the deficiency plus interest.[59] Silliman appealed, urging that his personal liability had already been rejected in another judicial proceeding, and that this circumstance barred relitigation.

He pointed to a hearing before the Surrogate of New York County, where, following Judge Coxe's adverse judgment, he had asked to be paid counsel fees from the estate for his own services defending it—from the consequences of the fraud he had himself concocted! Government counsel, seeking to preserve the insufficient Hackfeld assets for the benefit of the United States, argued volubly that the Surrogate should not permit Silliman to profit by the very scheme to which he had been a party. But the Surrogate allowed the fees nonetheless,[60] and when the personal judgment against Silliman was later reviewed on appeal, the appellate tribunal held the Government barred from recovery by reason of the Surrogate's earlier determination.[61] A scholarly legal journal deplored that result as untenable.[62] But the Supreme Court, whose caseload even 30 years ago did not permit it to review every erroneous result reached by lower courts, let stand the ruling that set aside the Government's million dollar judgment.[63]

Accordingly, Silliman escaped the first hook. The Government paused to regroup, and then sent in the revenuers. The latter undertook an examination of the way Silliman had dealt with the very substantial fees that he had received from his Hackfeld and Isenberg clients for recovering their seized property from the United States. There they struck pay dirt.

A provision in the Winslow Act of 1923 had limited counsel fees for the recovery of seized property to 3% of the amounts recovered.[64] Silliman had actually received fees totalling 13%, characterizing the extra 10% as a gift, and charging all of his expenses against the lawful 3%. In consequence, he had understated his income by some $550,000 over the years 1924 to 1927, and underpaid his taxes by $232,000 in the same period. The Tax Court found that his tax returns were accordingly false and fraudulent and made with intent to evade tax. Silliman became liable, not only for the unpaid taxes, but for the 50% fraud penalty in addition, as well as for interest on the deficiency-plus-penalty for between 25 to 28 years. (There is no statute of limitations on fraudulent tax returns, any more than there is on murder.) In all, this came to about $925,000 owing to Uncle Sam. Appeals proved unavailing, the final one failing in October 1955.[65]

At this point of obviously total financial ruin, the ordinary individual would doubtless simply have taken to his bed and turned his face to the wall. But the skillful originator of such many-splendored frauds was no ordinary individual. Silliman did not give up the ghost until November 1961, well along into his 91st year.[66]

REFLECTION

What could possibly have induced Silliman to risk defrauding the United States twice running on identical claims? Did he deem himself impregnably secure behind two executive allowances, by President Coolidge in the case of Hackfeld and by President Hoover in that of J. Carl Isenberg? Or had the passing years simply obliterated every recollection of the means by which he had engineered and fabricated those two recoveries?

Silliman was not the only Alien Property claimants' lawyer who made a similarly fatal miscalculation. In the American Metals case of the Harding-Daugherty era, a Swiss corporation had sought recovery of property seized by the Alien Property Custodian. If the company was owned by Swiss nationals, it was entitled to full return; if however the concern was German-owned, return was then still prohibited by law. Company officials plied Custodian Miller—and others—with gifts, Liberty Bonds, and cash, with the result that, within just two days after receipt of a complex and lengthy claim, this Harding appointee determined the concern to be genuinely Swiss. It therefore obtained nearer to seven than six million dollars, whereupon, all in due course, prison gates clanged shut on Miller.[67]

Some years later, it was ruled that former non-German enemies who had recovered seized property were entitled to all interest that had been earned on such property while it remained in the Custodian's hands.[68] Thereupon the same Swiss company whose officers had corrupted Miller had the effrontery to ask for interest on the principal sum that it had earlier so dishonestly obtained. Its request was, understandably, treated by the Department of Justice as too hot to handle; Attorney General William Mitchell told the claimants that they would have to take it to court. Nothing daunted, the Swiss company did just that—and there wound up on the receiving end of a cross-judgment for well over 13 million dollars, made up of the principal sum earlier obtained by bribing Miller, plus, necessarily, over 15 years' interest at 6% per annum on top of that.[69]

Yet, and here is the deadly parallel with Silliman's imprudence, the very same New York lawyer who commenced that fateful proceeding had in actual fact been present in Switzerland in October 1918, where, with the permission of the War Trade Board, he had dealt personally with the true German owners of the Swiss company! Hence if there was anyone in all of the United States who knew full well that the Swiss concern was indeed German-owned, it was this lawyer—despite which this identical individual signed and swore to the first papers in the lawsuit that ultimately ruined his client.[70] Once again, the lapse of time had eradicated all memory of the earlier but still crucial facts.

In all these instances, the individuals concerned met ultimate disaster because the censorship of their unconscious had wiped out every recollection either of their own personal misconduct, or of their own prior knowledge of facts fatal to the claims that they later asserted.

Somewhat similar functioning of the human mind underlay the persistently pursued mirage of the former Hackfeld & Co. stockholders who contended again and again that their shares had been grossly undervalued in 1918. As to some, not present in Honolulu after Rodiek's guilty plea and the revelations of the Grasshof diary had combined to drive the company to the brink of ruin, their position represented simply a form of wishful thinking, mere nostalgic recollection of the halcyon days when Hackfeld & Co. stood in the van of the Big Five, regularly paying out fat cash dividends as though it were a branch of the United States mint. One minor functionary, confronted on cross-examination with the query, "Isn't it the fact that, as you get farther and farther away from 1918, the value of Hackfeld & Co. stock seems always higher to you?", actually answered "Yes."[71] (But he was only reflecting the views of his superiors. In the California litigation, begun in 1924, the former

stockholders had asserted that the true value of their company was, not the $7,500,000 for which it had been sold, but $17,500,000. But before the sequel Court of Claims proceeding terminated, in 1943, the worth claimed for Hackfeld & Co. had nearly doubled; by then John Hackfeld's estate contended that it was actually $30,000,000.)

For others, who had indeed been present in Hawaii or in California at the critical time, notably Humburg and Rodiek, the unpleasant facts were simply forgotten—to be remembered again only when inconsistent writings over their signatures made them writhe in the witness chair. So far indeed did their unconscious blot out the hateful past that Von Damm, testifying on deposition in 1938 and being shown the front page headlines of the Honolulu newspapers that had so shocked readers with the revelations of Captain Grasshof's souvenir booklet, professed not to remember at all those events of November 1917. His lapse was, without question, genuine; although on the next day, doubtless after a largely sleepless night, Von Damm's memory broke through the mental filters that were shielding him from the nightmare days of twenty years before.[72]

Indeed, the only completely truthful man in the entire Hackfeld *hui* was J. F. Carl Hagens. He called the shots as he saw them, and as they happened, and refused to join the other stockholders in their California lawsuit. By way of reward for his integrity, they sued him as an additional defendant. For all of them except Hagens, the whole matter was an instance of believing, as surely most persons do, only what they wanted to believe.

In the end, therefore, the doings of Silliman, of Hackfeld, and of all the other ousted Hackfeld & Co. stockholders, simply illustrate in slightly varying fashion the curtains that with unfailing regularity efface all unpleasantness of prior days. This is a recognized phenomenon, first brought to public attention at the turn of the century by Sigmund Freud, who then documented with a host of examples the universal proposition that every instance of forgetfulness is motivated and triggered by some impulse of dislike or displeasure.[73]

So much for the personal, psychological aspects of the complex story just detailed; it is now appropriate to consider that narrative's significance in the history of the State of Hawaii.

Wartime seizures of enemy property could easily be justified as a measure necessary during hostilities. But, once the war fervor of 1917–1918 had subsided and the euphoric period of the mid-1920s arrived, with the Locarno Pact of 1925 and the admission of Germany into the League of Nations the following year,[74] it seemed cruel to many that Custodian A. Mitchell Palmer had administered the Trading with

the Enemy Act with the objective of expunging German influence and German capital everywhere in the United States and its overseas territories, not only while the First World War continued, but forever.

In the retrospect of more than half a century, one may well take a different view. Suppose that German-owned property had simply been held in custody and not sold, and that after the peace it had then been returned in kind to its former owners. In that event, following the advent of the Nazis in 1933, the then German Government would have had a spy network centered in Hawaii, one that would plainly have put into the shade the distinctly small-time World War I activities of Consul George Rodiek, of Captain Grasshof, and of the skipper of *Cormoran* at Guam. And that Nazi network, once Japan joined the Axis in September 1940,[75] would have operated side by side with the Nipponese intelligence apparatus headquartered in Japan's Honolulu consulate-general, the same that in the event contributed so significantly to the American disaster at Pearl Harbor.[76]

Consequently, from the vantage point of 20–20 hindsight sixty years later, it was indeed fortunate for the United States that Alien Property Custodian A. Mitchell Palmer took such a hard line position in 1918, and that he succeeded in removing from Hawaii for the foreseeable future every vestige of German capital and influence.

NOTES

[1] Except where otherwise indicated, all of the text that follows is supported by the records of the three principal lawsuits involved, which, in order to avoid a proliferation of footnotes to document particularized statements, will simply be cited generally at this point, as follows:

(1) The former Hackfeld & Co. stockholders' action against the 1918 reorganizers, the California case, appears in *Isenberg* v. *Sherman,* 212 Cal. 454, 298 Pac. 1004; *Isenberg* v. *Sherman,* 212 Cal. 507, 299 Pac. 528; *Isenberg* v. *Sherman,* 214 Cal. 722, 7 P.2d 1006, certiorari denied, 286 U.S. 547.

(2) The suit by the Hackfeld estate to recover from the United States what Hackfeld had failed to recover from the reorganizers in the California case just cited. This was the Court of Claims case, reported in *Rodiek* v. *United States,* 100 C.Cls. 267.

(3) Inasmuch as the United States could not counterclaim in the Court of Claims case, it sued the Hackfeld estate in New York to recover the difference between what Hackfeld had actually received on the basis of his asserted American citizenship, and the largest sum to which he would have been entitled as the German national that he actually was. This was the New York case, for which see *United States* v. *Rodiek,* 117 F.2d 588; rehearing denied with opinion, 120 F.2d 760; judgment affirmed, 315 U.S. 783, rehearing denied, 316 U.S. 707.

The author took extensive depositions in the New York case, tried it with another lawyer, and argued it twice in the Second Circuit. However, by the time that the

matter reached the Supreme Court, the author was in uniform, serving as Judge Advocate at the U.S. Army base in Trinidad, which was then a part of the British West Indies.

[2] For the "Big Five" and the Hawaiian sugar industry generally, see W. A. Simonds, *KAMAAINA—A Century in Hawaii* ([Honolulu: American Factors, Ltd.], 1949); F. Simpich, Jr., *Dynasty in the Pacific* (New York: McGraw-Hill, 1974); G. Daws, *Shoal of Time, A History of the Hawaiian Islands* (New York: Macmillan, 1968). As before, particularized citations will be omitted.

[3] For the origins of H. Hackfeld & Co. Ltd., see, in addition to the works cited in the preceding note: E. Damon, *Koamalu*, 2 vols. (Honolulu: privately printed, 1931); B. Krauss & W. P. Alexander, *Grove Farm Plantation: The Biography of an Hawaiian Sugar Plantation* (Palo Alto, Calif.: Pacific Books, 1965); E. Joesting, *Hawaii, An Uncommon History* (New York: Norton, 1972). Reference should also be made to Joesting for the events of 1917–1918, developed below. See also Sandra E. Wagner-Seavey, "The Effect of World War I on the German Community in Hawaii", HJH, 14 (1980), 109–140.

[4] See *Cummings* v. *Isenberg*, 89 F.2d 489, 490, 491, certiorari denied, 301 U.S. 713.

[5] The building was demolished in 1970 to make room for the first of the Amfac Towers (personal communication from the Hon. Masaji Marumoto of Honolulu).

[6] Personal observation of the side entrance, first in 1938, last in 1967.

[7] Author's observation of the original diary.

[8] Sec. 2(a) of the Act of Oct. 6, 1917, c. 106, 40 Stat. 411, codifying earlier rulings; e.g., *The Venus*, 8 Cranch 253 (War of 1812); *Miller* v. *United States*, 11 Wall. 268 (Civil War); *Juragua Iron Co.* v. *United States*, 212 U.S. 297 (Spanish-American War).

[9] Act of June 5, 1920, c. 241, 41 Stat. 977.

[10] See also *Pflueger* v. *United States*, 121 F.2d 732, certiorari denied, 314 U.S. 617.

[11] Act of March 4, 1923, c. 285, 42 Stat. 1511.

[12] The most notorious of these was the American Metals case, for which Custodian Thomas W. Miller and Attorney General Harry M. Daugherty were indicted, and for which Miller went to jail. *Miller* v. *United States*, 24 F.2d 353, certiorari denied, 276 U.S. 638. For the sequel, see pp. 40–41.

[13] Sec. 4 of the Act of Apr. 30, 1900, c. 339, 31 Stat. 141.

[14] Matter of Bowler, *Foreign Relations of the U.S., 1895*, II, 853; Matter of Godfrey, *id.* at 867; G. H. Hackworth, *Digest of International Law* (Washington, D.C.: Government Printing Office, 1940–44), III, p. 125.

[15] Sec. 2 of the Act of Mar. 2, 1907, c. 2534, 34 Stat. 1228, 8 U.S.C. (1934 ed.)§ 317, sustained in *Mackenzie* v. *Hare*, 239 U.S. 299 (1915). Extended to three years in 1952 (8 U.S.C. [1958 ed.] §1484), the presumption of expatriation was held unconstitutional as discriminating against naturalized citizens in *Schneider* v. *Rusk*, 377 U.S. 163 (1964), overruling *Mackenzie* v. *Hare*. But *Rogers* v. *Bellei*, 401 U.S. 815 (1971), casts doubt on the *Schneider* rationale.

[16] *Von Zedtwitz* v. *Sutherland*, 26 F.2d 525; *Hahn* v. *Public Trustee*, [1925] Ch. 715.

[17] The transcript was in the author's office from November 1937 until March 1941.

[18] Told the author by his former chief, Harry LeRoy Jones, Esq., of Washington, D.C., who had it in 1936 from the defense lawyers in the California case. Jones was then in the process of defending the Court of Claims case.

[19] Sec. 151 of the 1911 Judicial Code, 28 U.S.C. (1934 ed.) §27, later 28 U.S.C. (1952 ed.) §1492. Following the decision in *Glidden Co.* v. *Zdanok*, 370 U.S. 530, §1492 was amended in 1966 to permit future Congressional references to be made to the Chief Commissioner of the Court of Claims.

[20] The 1924 Executive Allowance in Hackfeld's favor was revoked by Executive Order No. 7162, Aug. 29, 1935, but the New York cross-action was not filed until Apr. 13, 1936. The delay was a consequence of the virtual autonomy of the U.S. Attorney's Office in the Southern District of New York; it took that long for the Department of Justice lawyers to persuade those in New York that the Government's cross-claim had merit. Ironically, as will be seen, the latter proceeding resulted in a directed verdict in the Government's favor that was affirmed all the way.

[21] Sec. II, Act of Oct. 3, 1913, c. 16, 38 Stat. 114, 166–181.

[22] The author noted the long silences while examining Rodiek in San Francisco on deposition in the spring of 1938.

[23] See also *Pflueger* v. *United States,* 121 F.2d 732, certiorari denied, 314 U.S. 617.

[24] The author saw a number of such communications between November 1937 and March 1939.

[25] Personal communication from Frederick L. Smith, Esq. (the author's assistant in the Department of Justice from 1937 to 1941, and after V-E Day a lawyer with the American Military Government in Germany).

[26] Personal communication from Captain Osann.

[27] Rosenak testified in the New York case through an interpreter—before the jury, as foreign law was then still deemed a question of fact for jury determination. Kronstein later became a distinguished professor of law at Georgetown University.

[28] Personal communication from Mr. William Todd, 1938, Charlottesville, Va.

[29] On the witness stand in the California case in the mid-1920s, Von Damm denied no less than three times receiving the thanks of the Kaiser, but admitted the fact when testifying on depositions taken in 1938 for use in the New York case.

[30] J. Buchan, *A History of the Great War* (Boston/New York: Houghton Mifflin Co., 1923), I, 443–451.

[31] P. Carano & P. C. Sanchez, *A Complete History of Guam* (Rutland, Vt.: C. E. Tuttle, 1964), pp. 224–227.

[32] Author's personal experience in 1938.

[33] H. B. Phillips, ed., *Felix Frankfurter Reminisces* (New York: Reynal & Co., 1960), pp. 11, 32.

[34] Personal knowledge.

[35] The entire story of how Roll was ultimately found out is based on the author's personal knowledge and experience.

[36] Art. 17, Sec. 2.

[37] Art. 17, Sec. 5.

[38] Art. 18, Sec. 1.

[39] Art. 18, Sec. 2.

[40] Matter of Bowler, (note 14, above).

[41] Matter of Godfrey, (note 14, above).

[42] Compare Justice Holmes' famous comment about the provisions of the Constitution of the United States: "Their significance is vital not formal; it is to be gathered not simply by taking the words and a dictionary, but by considering their origin and the line of their growth." *Gompers* v. *United States,* 233 U.S. 604, 610.

[43] See *United States* v. *Rodiek,* 162 Fed. 469 (declaration of intent not filed soon enough).

[44] Former Chief Justice (and former Governor) Walter F. Frear, last surviving member of the commission that framed the Hawaiian Organic Act; former Chief Justice A. G. M. Robertson, last surviving member of the Convention that framed the

Constitution of the Republic of Hawaii; the Hon. W. L. Stanley, who had been a Circuit Judge under the Republic; the Hon. E. F. Huber, then a U.S. District Judge; and a Mr. Judd, a very senior member of the bar.

[45] *United States* v. *Fremont,* 17 How. 542, 557 (Dec. T. 1854).

[46] "When we contemplate such a system [i.e., "a different system from that which prevails here"] from the outside it seems like a wall of stone, every part even with all the others, except so far as our own local education may lead us to see subordinations to which we are accustomed. But to one brought up within it, varying emphases, unwritten practices, a thousand influences gained only from life, may give to the different parts wholly new values that logic and grammar never could have got from the books." *Diaz* v. *Gonzales,* 261 U.S. 102, 105–106.

[47] Personal knowledge.

[48] *Falter* v. *United States,* 23 F.2d 420, 424, certiorari denied, 277 U.S. 590.

[49] Sen. Doc. 126, 75th Cong., 3d sess.; 83 Cong. Rec. 5.

[50] For the governing principle, see *McElrath* v. *United States,* 102 U.S. 426, and *Société Suisse* v. *Cummings,* 99 F.2d 387, certiorari denied, 306 U.S. 631.

[51] Under the Settlement of War Claims Act of March 10, 1928, c. 107, 45 Stat. 254, former enemies of German nationality were granted the right to recover 80% of their seized property. But when the Nazis defaulted on their payments to American claimants, Congress halted all further recoveries by German nationals (Pub. Res. 53 of June 27, 1934, c. 851, 48 Stat. 1267), and that step was sustained by the Supreme Court in *Cummings* v. *Deutsche Bank,* 300 U.S. 115.

[52] Justice Frankfurter, many years later, told the author how very much disturbed Chief Justice Stone had been after he saw in black and white the extent of the fraud, and of the corruption, by which he had been deceived.

[53] *Isenberg* v. *Biddle,* 125 F.2d 741. For a detailed listing of the many fraudulent documents involved, see the Government's brief in this case, set forth in the author's *Effective Appellate Advocacy* (New York: Prentice Hall, 1950), pp. 427–446. Those two citations support all further statements about the J. Carl Isenberg case.

[54] See note 51.

[55] See the first references in note 1.

[56] As a matter of German law, acceptance of that commission would have naturalized him without more. It may be recalled that Adolf Hitler shed the Austrian nationality of his birth by being named a petty official in the small German state of Brunswick. K. Heiden, *Der Fuehrer* (Boston: Houghton Mifflin Co., 1944), pp. 444–445; J. Toland, *Adolf Hitler* (Garden City, N.C.: Doubleday, 1976), I, 273–274.

[57] E.g., *Von Zedtwitz* v. *Sutherland,* 26 F.2d 525.

[58] Stated in the author's hearing. Later, in 1944, he testified to this statement in a deposition taken for use in the New Jersey proceeding against Silliman that is cited in the note immediately following.

[59] *United States* v. *Silliman,* 65 F. Supp. 665.

[60] *Matter of Hackfeld's Estate,* 180 Misc. 406, 40 N.Y.S.2d 60.

[61] *United States* v. *Silliman,* 167 F.2d 607.

[62] "Developments in the Law—Res Judicata," *Harvard Law Rev.,* 65 (1952) 818.

[63] Certiorari denied, 335 U.S. 825.

[64] Sec. 2 of the Act of March 4, 1923, c. 285, 42 Stat. 1511, 1515, adding Sec. 20 to the Trading with the Enemy Act.

[65] All of the foregoing facts appear in the first opinion of the U.S. Tax Court; see *Silliman* v. *Commissioner,* 11 TCM 921, 12 TCM 707; affirmed, 220 F.2d 282; certiorari denied, 350 U.S. 828 (Oct. 10, 1955).

[66] Death certificate, New Jersey Department of Health, showing that Silliman was born May 17, 1871, at Hudson, WI, and died Nov. 12, 1961, at East Orange, NJ.

[67] *Miller* v. *United States,* 24 F.2d 353, certiorari denied, 276 U.S. 638.

[68] *Henkels* v. *Sutherland,* 271 U.S. 298 (May 1926).

[69] *Société Suisse* v. *Cummings,* 99 F.2d 287, certiorari denied, 306 U.S. 631. The judgment required Société Suisse to return to the United States the $6,967,987.30 received by it on Sept. 16, 1921, plus interest on that sum at 6% per annum until Feb. 16, 1937, the date of the judgment. As a matter of arithmetic, this comes to $13,413,375.55.

[70] The lawyer involved was Julian B. Beaty, Esq., of the New York bar. He signed and swore to the complaint seeking Henkels' interest on the principal sums corruptly obtained by the Société Suisse. For Beaty's trip to Switzerland in October 1918 with the permission of the War Trade Board, see the opinions in the *Miller* and *Société Suisse* cases, 24 F.2d at 358 and 361, and 99 F.2d at 392–393 and 395 respectively.

[71] This was Richard Guessefeldt, testifying in the last *Pflueger* case, 121 F.2d 732, certiorari denied, 314 U.S. 617. He was somewhat more fortunate in his own World War II Alien Property case. *Guessefeldt* v. *McGrath,* 342 U.S. 309 (1952).

[72] Personal observation during Von Damm's deposition in San Francisco in the spring of 1938.

[73] "The forgetting in all cases is proved to be founded on a motive of displeasure." *Psychopathology of Everyday Life,* in A. A. Brill, ed. & tr., *The Basic Writings of Sigmund Freud* (New York: Modern Library, 1938), p. 96. See chaps. I–VII of the *Psychopathology,* all dealing with forgetting and concealed memories. The text itself was first published as a book in 1904, although it had appeared in a periodical three years earlier. E. Jones, *The Life and Work of Sigmund Freud* (New York: Basic Books, 1955), II, 11.

[74] See the *Columbia Encylopedia* (New York: Columbia University Press, 1975), s. vv. Locarno Pact and League of Nations.

[75] W. S. Churchill, *Their Finest Hour* (Boston: Houghton Mifflin, 1949), 522.

[76] L. Farago, *The Broken Seal* (New York: Random House, 1967), ch. 18, "The Missed Clue" (pp. 224–233) and ch. 19, "The Pearl Harbour Spy" (pp. 234–237); T. Yoshikawa, "Top Secret Assignment", *U.S. Naval Inst. Proc.,* 86 (Dec. 1960), 27.